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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,564	10/10/2003	Keith Woodard	PED-001	9439

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TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/683,564	WOODARD ET AL.	
	Examiner	Art Unit	
	Djenane M. Bayard	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to amendment filed 3/10/06 in which claims 1-25 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2003/0212779 to Boyter et al.

a. As per claim 1, 15 and 26, Boyter et al teaches a system and method for network security scanning. Furthermore, Boyter et al teaches a method for scanning network devices connected to a network, comprising: (a) detecting connection of a first network device to the network (See page 4, paragraph [0024], *when a new host, or a new port on an existing host is found it is placed at the top of the priority list to be scanned immediately*); and performing remote agentless scanning of the first network device automatically in response to detection of the first network device to thereby avoid downloading a software agent to the first network device (See page 5,

paragraph [0031), *the purpose of the vulnerability scanner Daemon is to run vulnerability test on host found by the host scanner Daemon and the Port scanner Daemon. All vulnerability checks are performed by plug-ins installed in the plug-ins database*).

b. As per claim 2, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (a) further comprises inspecting data packets communicated over the network (See page 2, paragraph [0012]))

c. As per claims 3 and 16, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein the detecting step further comprises querying a database (See page 2, paragraph [0012], *accessing a control database for determining designated address, storing the status of each active host and inactive host in the control database*).

d. As per claim 4, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches broadcasting pings on the network, continuously examining address resolution protocol tables, continuously monitoring event logs, transmitting a Lightweight Directory Access Protocol (LDAP) query, and transmitting a Domain Name System query (See page 10)

e. As per claim 6, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (b) further comprises determining a property of the first network device (See page 9, paragraph [0053]).

f. As per claim 7, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (b) further comprises determining identity of the first network device (See page 9, paragraph [0053]).

g. As per claim 8, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein the determining of the identity of the first network device further comprises at least one of querying a database where the type has been determined, examining network traffic, analyzing network behavior, probing the first network device for signature responses, attempting to log into the device using a series of protocols, logging into the first network device and querying data within the device (See page 2, paragraph [0012] and page 5, paragraph [0031]).

h. As per claim 9, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches scanning at least one of a configuration, file, data, a software version, a patch, inventory, hardware, and a security vulnerability of the first network device (See page 5, paragraph [0031]).

i. As per claim 11, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (b) further comprises comparing at least one security setting of the first network device with a predetermined security setting (See page 5, paragraph [0031]).

j. As per claim 12, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (b) further comprises at least one of installing a software patch on the first network device, installing anti-virus software on the first network device, and determining if the first network device is part of a windows domain (See page 3, paragraph [0021] and page 9, paragraph [0053]).

k. As per claims 14 and 20, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches at least one of setting a security policy on the first network device, auditing the security policy of the first network device, ensuring compliance with a predetermined security policy, and reporting result (See page 5, paragraph [0031]).

l. As per claim 16, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches in view of Watkins et al fails to teach wherein the detecting module continuously polls a database for data corresponding to newly attached network devices (See page

m. As per claim 17, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein the scanning module remotely scans the first network device upon detecting data corresponding to the first network device in the database (See page 4, paragraph [0027]).

n. As per claim 18, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches a history database storing scan results of a scan performed by the scanning module (See page 5, paragraph [0031]).

o. As per claim 21, Boyter et al teaches a method for examining a first network device connected to a network, comprising: (a) querying a database for data representing connection of network devices to a network (See page 2, paragraph [0012](b) determining connection of a first network device to the network by locating data about the first network device in the database (See page 2, paragraph [0012] and page 6, paragraph [0012]) (c) determining properties associated with the first network device to determine the identity of the first network device (See pages 4 and 5, paragraph [0028] and page 9, paragraph [0053]); (d) determining items to scan based on at least one of the properties (See page 5, paragraph [0031]); and (e) performing remote agentless scanning of the first network device in response to the determination of the connection of the first network device to the network to thereby avoid downloading a software agent to the first network device (See page 5, paragraph [0031]).

p. As per claim 22, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (c) further comprises determining at least one of credentials associated with the first network device and type of the first network device (See page 4, paragraph [0028] and page 9, paragraph [0053]).

q. As per claim 23, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (c) further comprises at least one of querying a database where the identity has already been determined, examining network traffic, analyzing network behavior, probing the device for signature responses, and logging into the device to query data (See page 2, paragraph [0012]).

r. As per claim 24, Boyter et al teaches the claimed invention as described above. Furthermore, Boyter et al teaches wherein step (e) further comprises selecting a set of security policy settings to audit (See page 10, paragraph [0055]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 13, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2003/0212779 to Boyter et al in view of U.S. Patent Application No. 2004/0268145 to Watkins et al.

a. As per claims 13, 19 and 25, Boyter et al teaches the claimed invention as described above. However, Boyter et al fails to teach at least one of enabling the first network device to

have additional access to the network, denying the first network device access to the network, notifying another about the first network device based on results of the scan, and quarantining the first network device.

Watkins et al teaches one of enabling the first network device to have additional access to the network, denying the first network device access to the network, notifying another about the first 1, paragraph [0009], *the results of these checks are returned via the web and are used for security decisions involving the granting of authorization to access network services*).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate at least one of enabling the first network device to have additional access to the network, denying the first network device access to the network, notifying another about the first network device based on results of the scan, and quarantining the first network device as taught by Watkins et al in the claimed invention of Chari et al in order to provide a reliable client integrity scheme that can consistently regulate access to network services or resources on the observed integrity properties of remote network devices requesting access (See page 1, paragraph [0007]).

7. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2003/0212779 to Boyter et al as applied to claim 1 above, and further in view of U.S. Patent Application No. 2001/0047401 to Moore et al.

a. As per claim 5, Boyter et al teaches the claimed invention as described above. However, Boyter et al fails to teach wherein step (b) further comprises determining at least one of whether

the first network device is plugged into a wall socket, whether the first network device is connecting to the network via wireless access, and whether the first network device is connecting to the network via a Virtual Private Network.

Moore et al teaches a system and methods for determining the physical location of a computer's network interface. Furthermore, Moore et al teaches determining at least one of whether the first network device is plugged into a wall socket, whether the first network device is connecting to the network via wireless access, and whether the first network device is connecting to the network via a Virtual Private Network (See page 9, paragraph [0111]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate determining at least one of whether the first network device is plugged into a wall socket, whether the first network device is connecting to the network via wireless access, and whether the first network device is connecting to the network via a Virtual Private Network as taught by Moore et al in the claimed invention of Boyter et al in order to determine the connectivity type of the networks (See page 9, paragraph [0112]

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER